

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

THE ESTATE OF ROGER D. OWENSBY,	:	Case No.: 01-CV-769
Plaintiff,	:	(Judge Spiegel)
-vs-	:	
CITY OF CINCINNATI, et. al.,	:	<u>REPORT TO COURT</u>
Defendant.	:	<u>re: COURT'S ORDER TO</u>
	:	<u>COUNSEL TO INVESTIGATE</u>
	:	<u>FINGERPRINT EXAM</u>
	:	<u>RESULTS</u>

Pursuant to the Court's verbal order to the undersigned counsel at the status conference of this case held on March 9, 2004, the undersigned counsel and her staff took the following actions in an effort to ascertain the whereabouts and/or the results of the fingerprint examination allegedly performed by former police officer Barry Vogel on November 27, 2000 on the evidence contained in Property Bag # 00-21013.

DATE

NOTES

2/25/04	Meeting with fingerprints experts John Olenik - City Experts, Michael Sinke - Plaintiff's Experts. The following people were present during the test: Paul Martins, Don Hardin, Jim Lawson - Criminalistic, Rudy Gruenke - CPD and Sonya Walker.
2/26/04	Received letter from Paul Martins requesting that we provide him with the test results of Barry Vogel for fingerprints taken on 11/27/00.
3/4/04	[Sonya] Telephoned Jim Lawson - Criminalistic regarding fingerprints results from Barry Vogel and any documentation of the test results.

3/6/04 Received 2nd letter from Martins as to a response from his 2/26/04 letter.

3/5/04 [Sonya] Left message on Jim Lawson VM. - works evening shift.

3/8/04 [Sonya] Left message on Jim Lawson VM - works evening shift.

3/8/04 Telephoned Pat Moran - left message on VM.

3/9/04 [Sonya] Pat returned my call, explained the situation to him, he will look into this and get back with me and provide me with Barry contact number.

3/10/04 [Geri] met with Sonya to discuss status of investigation; contacted supervisor in Criminalistics, Rudy Gruenke, explained situation and asked him to search records and contact Lawson and Moran.

3/11/04 [Sonya] Spoke with Rudy Gruenke, there was no documentation left behind by Barry Vogel on the fingerprint issue. However, Rudy was able to provide me with Vogel address and phone number. [5513 Lawrenceburg Road, Harrison, OH 45030; (513) 202-0881;

3/11/04 [Sonya] Telephoned Barry, left message on VM to give me or Geri a call.

3/15/04 [Sonya][Geri] rec'd call from Barry on VM. I returned Barry's call and explained the situation with him; Barry could not recall what the results were or who requested the test. Geri spoke with Barry and determined the same. Geri advised Carol to read Caton trial transcript to determine whether the results were admitted in his trial and that Geri would review Jorg's transcripts. Nothing found in Jorg transcript.

3/16/04 Geri and Sonya went to the Homicide Dept. to review the property evidence envelope to see if we missed something that will provide us with the results. Also, while we were there, Pat Moran and Boertline assisted us in reviewing Owensby Criminalistic file. Found no test results.

3/16/04 Sonya and Geri made conference call to Barry Vogel and asked him to review the file to see if it would trigger his memory and once he gets to the CPD, to telephone us and we will meet him there. However, Barry telephoned Geri and didn't recall anything new, nor did he find notes or results. Barry Vogel suggested we

look through storage files from D.4 basement. Geri requested of Cpt. Demasi that files be retrieved.

3/16/04

Geri and I went back to Homicide and met with Kim Frye, CPO who provided us with criminalistic's file on Owensby. We looked thru the file and found no test results. Also, Demasi provided us with the Criminalistic office file once again for us to review. During this time we met with Kim Frye, Vince Demasi, Anthony Carter, and 2 other investigators. Kim provided us with names of CPD Supervisors that were on duty that night. [Lt. Mike Jones (retired)]; [Sgt. John Newsom - Warren Co. Sheriff]; [Lt. Anthony Carter] and [Lt. Cindy Combs].

According to the above, Sgt. John Newsom *could have* given Barry the order to test for fingerprints. Demasi will provide us with Newsom's phone number. Anthony will provide us with Mike Jones number. None of the supervisors could recall ordering Vogel to perform test.

3/17/04

[Sonya] reviewed Hamilton Co. Prosecutors' file (Jorg) for any request of fingerprints tests. No results found. However, a "Supplemental Discovery Demand" from the Defendant asking to include samples of tissues, body fluids, clothing, foreign substances, ***fingerprints*** and any other physical evidence collected from the scene, victim, suspects or witnesses was found. Nothing more was found in the file.

Geri received another demand letter from Martins and immediately replied that City would respond on or before 3/22/04.

3/18/04

Geri telephoned Scott Croswell - Jorg's attorney - who did not recall any fingerprint test results having been mentioned during the criminal trial. No allegations of planting drugs were made against the officers during the criminal trials, to his recollection.

Geri telephoned Bill Gustuvson - left message on VM regarding fingerprints results in the criminal trial.

Geri reviewed the Criminal Trial transcript of Jorg and Caton looking for any evidence on fingerprints results. Nothing found.

3/18/04

Geri received call from Gustavson stating that no allegations were made against the officers of drug planting during the criminal trials and that no fingerprinting of the baggies was ever brought up, to his knowledge.

3/19/04

Geri checked with Demasi and Carter to determine whether other supervisors recall requesting the test be run. No other spvr. recalls requesting the test.

The undersigned counsel has made a good faith attempt to thoroughly investigate the existence and/or whereabouts of the fingerprint exam results and has been unable to ascertain the same, other than what is provided herein.

Respectfully submitted,

JULIA L. McNEIL (0043535)
City Solicitor

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**CERTIFICATE OF SERVICE
BY ELECTRONIC FILING**

I hereby certify that on March 22, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record listed below.

~~s: Geri Hernandez Geiler~~

GERI HERNANDEZ GEILER

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